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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/679,767	10/05/2000	Michael John Smith	15.668	1320
23556	7590	07/15/2004	EXAMINER	
KIMBERLY-CLARK WORLDWIDE, INC.			MIGGINS, MICHAEL C	
401 NORTH LAKE STREET			ART UNIT	
NEENAH, WI 54956			PAPER NUMBER	
			1772	

DATE MAILED: 07/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/679,767

Applicant(s)

SMITH ET AL.

Examiner

Michael C. Miggins

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 September 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 06062002
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

REJECTIONS WITHDRAWN

1. The 35 USC 103(a) rejection of claims 1-11 set forth in the non-final office action of 6/6/2002 has been withdrawn.

NEW REJECTIONS

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Salman et al. (U.S. Patent No. 5,904,812) in view of Edwards et al. (U.S. Patent No. 5,494,554) and Farrington, Jr. et al. (U.S. Patent No. 5,656,132).

Salman et al. teach a roll of bath tissue comprising a wound continuous tissue basesheet having space-apart transverse lines of perforations which define individual tissue sheets for detachment in use (abstract, column 5, lines 16-45) having from about 600 to 800 sheets per roll (column 5, lines 28-34) (applies to instant claims 1-5, 12-16 and 23-27).

Salman et al. disclose applicant's invention substantially as claimed. However, Salman et al. fail to disclose a base sheet having a void volume of about 8.0 grams per gram of tissue or greater.

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Edwards et al. teach a base sheet having a void volume of about 8.0 grams per gram of tissue or greater (column 13, lines 5-63 and column 14, lines 1-16) (applies to instant claims 1, 6-7, 12, 17-18, 23 and 28-29) in a tissue (abstract) for the purpose of providing softer wet-pressed tissues with a lesser tendency to produce lint (column 1, lines 25-30).

Therefore it would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to have provided a base sheet having a void volume of about 8.0 grams per gram of tissue or greater in the tissue of Salman et al. in order to provide softer wet-pressed tissues with a lesser tendency to produce lint as taught by Edwards et al..

Salman et al. disclose applicant's invention substantially as claimed. However, Salman et al. fail to disclose a base sheet having a single sheet caliper of about 0.01 inch or less, or 0.0095 inch or less.

Farrington, Jr. et al. teach a base sheet having a single sheet caliper of about 0.01 inch or less, or 0.0095 inch or less (see Table 1) for the purpose of providing high bulk and low stiffness (column 1, lines 60-67) (applies to instant claims 1, 10-12, 21-23 and 32-33).

Therefore it would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to have provided a base sheet having a single sheet caliper of about 0.01 inch or less, or 0.0095 inch or less in the base sheet of Salman et al. in order to provide high bulk and low stiffness as taught or suggested by Farrington, Jr. et al..

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Salman et al. and Farrington, Jr. et al. disclose the claimed invention except for the geometric mean stretch recited in claims 1, 8-9, 12, 19-20, 23 and 30-31. However, Farrington et al. teach that machine direction stretch and cross machine direction stretch are variable (column 3, line 61 through column 4, line 5). Thus one of ordinary skill in the art would have recognized that the geometric mean stretch recited in claims 1, 8-9, 12, 19-20, 23 and 30-31 would be readily determined through routine experimentation depending on the desired end results absent some showing of unexpected results since geometric mean stretch is the square root of the product of machine direction stretch and cross direction stretch as defined by applicant on page 2 of the instant specification. Further, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the geometric mean stretch recited in claims 1, 8-9, 12, 19-20, 23 and 30-31 in order to provide high bulk and low stiffness, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges or an optimum value of a result effective variable involves only routine skill in the art (applies to instant claims 1, 8-9, 12, 19-20, 23 and 30-31). *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Response to Arguments

4. While new grounds of rejection have been set forth for claims 1-33, applicant has argued that the secondary reference pertains to creped wet-pressed tissues and it is not obvious that the properties of a wet-pressed tissue

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could simply be incorporated into a throughdried tissue of Salman as suggested since the methods of making the two base sheets is so different.

In response to applicant's preceding argument, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Miggins whose telephone number is (571) 272-1494. The examiner can normally be reached on Monday-Friday; 1:30-10:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pyon Harold can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MCM
July 12, 2004

Michael C. Miggins
Examiner
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